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Chapter No. 561
10/HR07/R2133
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HOUSE BILL NO. 1758

Originated in House Don Richardson Clerk

HOUSE BILL NO. 1758

AN ACT TO PROVIDE FOR A FEE FOR FILING PETITIONS TO EXPUNGE CERTAIN FELONY CONVICTIONS; TO PROVIDE THAT THE FUNDS DERIVED FROM THE FEE SHALL BE DEPOSITED INTO THE SPECIAL FUNDS CREATED IN THE STATE TREASURY IN THIS ACT; TO CREATE A SPECIAL FUND IN THE STATE TREASURY WHICH SHALL BE ADMINISTERED BY THE ADMINISTRATIVE OFFICE OF COURTS FOR THE PURPOSE OF PROVIDING FUNDS FOR THE OPERATION OF THE JUDICIAL SYSTEM IN THE STATE; TO CREATE A SPECIAL FUND IN THE STATE TREASURY AND PROVIDE THAT MONIES IN THE SPECIAL FUND SHALL BE USED FOR THE PURPOSE OF PROVIDING FUNDS FOR THE OPERATION OF THE OFFICES OF DISTRICT ATTORNEYS IN THE STATE; TO BRING FORWARD SECTION 9-1-36, MISSISSIPPI CODE OF 1972, WHICH PROVIDES CERTAIN FUNDS FOR DEFRAYING OFFICE OPERATING EXPENSES OF CIRCUIT JUDGES AND CHANCELLORS, FOR THE PURPOSES OF AMENDMENT; TO BRING FORWARD SECTION 25-31-8, MISSISSIPPI CODE OF 1972, WHICH PROVIDES CERTAIN FUNDS FOR DEFRAYING OFFICE OPERATING EXPENSES OF DISTRICT ATTORNEYS, FOR THE PURPOSES OF AMENDMENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. A filing fee of One Hundred Fifty Dollars (\$150.00) is hereby levied on each petition to expunge an offense under Section 99-19-71 to be collected by the circuit clerk and distributed as follows:

(a) One Hundred Dollars (\$100.00) to be deposited into the Judicial System Operation Fund;

(b) Forty Dollars (\$40.00) to be deposited into the District Attorneys Operation Fund; and

(c) Ten Dollars (\$10.00) to be retained by the circuit clerk collecting the fee for administration purposes.

SECTION 2. (1) There is created in the State Treasury a special fund designated as the Judicial System Operation Fund. The funds shall be administered by the Supreme Court through the Administrative Office of Courts. The fund shall consist of monies deposited therein as provided in Section 1 of this act and monies

from any other source designated for deposit into the fund. The Administrative Office of Courts may also accept monies from any public or private source for deposit into the fund. Money remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned from the investment of monies in the fund shall be deposited to the credit of the fund.

(2) Monies in the fund shall be subject to appropriation by the Legislature and may only be used for the purpose of the operation of the judicial system in the state as determined necessary by the Supreme Court. Monies in the fund used for the purposes described in this section shall be in addition to other funds available from any other source for such purposes.

SECTION 3. (1) There is created in the State Treasury a special fund designated as the District Attorneys Operation Fund. The funds shall be administered by the Attorney General. The fund shall consist of monies deposited therein as provided in Section 1 of this act and monies from any other source designated for deposit into the fund. The Attorney General may also accept monies from any public or private source for deposit into the fund. Money remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned from the investment of monies in the fund shall be deposited to the credit of the fund.

(2) Monies in the fund shall be subject to appropriation by the Legislature and may only be used for the purpose of assisting district attorneys as determined necessary by the Attorney General. Monies in the fund used for the purposes described in this section shall be in addition to other funds available from any other source for such purposes.

SECTION 4. Section 9-1-36, Mississippi Code of 1972, is brought forward as follows:

9-1-36. (1) Each circuit judge and chancellor shall receive an office operating allowance for the expenses of operating the office of the judge, including retaining a law clerk, legal research, stenographic help, stationery, stamps, furniture, office equipment, telephone, office rent and other items and expenditures necessary and incident to maintaining the office of judge. The allowance shall be paid only to the extent of actual expenses incurred by the judge as itemized and certified by the judge to the Supreme Court in the amounts set forth in this subsection; however, the judge may expend sums in excess thereof from the compensation otherwise provided for his office. No part of this expense or allowance shall be used to pay an official court reporter for services rendered to said court.

(a) Until July 1, 2008, the office operating allowance under this subsection shall be not less than Four Thousand Dollars (\$4,000.00) nor more than Nine Thousand Dollars (\$9,000.00) per annum.

(b) From and after July 1, 2008, the office operating allowance under this subsection shall be Nine Thousand Dollars (\$9,000.00) per annum.

(2) In addition to the amounts provided for in subsection (1), there is hereby created a separate office allowance fund for the purpose of providing support staff to judges. This fund shall be managed by the Administrative Office of Courts.

(3) Each judge who desires to employ support staff after July 1, 1994, shall make application to the Administrative Office of Courts by submitting to the Administrative Office of Courts a proposed personnel plan setting forth what support staff is deemed necessary. The plan may be submitted by a single judge or by any combination of judges desiring to share support staff. In the process of the preparation of the plan, the judges, at their request, may receive advice, suggestions, recommendations and other assistance from the Administrative Office of Courts. The

Administrative Office of Courts must approve the positions, job descriptions and salaries before the positions may be filled. The Administrative Office of Courts shall not approve any plan which does not first require the expenditure of the funds in the support staff fund for compensation of any of the support staff before expenditure is authorized of county funds for that purpose. Upon approval by the Administrative Office of Courts, the judge or judges may appoint the employees to the position or positions, and each employee so appointed will work at the will and pleasure of the judge or judges who appointed him but will be employees of the Administrative Office of Courts. Upon approval by the Administrative Office of Courts, the appointment of any support staff shall be evidenced by the entry of an order on the minutes of the court. When support staff is appointed jointly by two (2) or more judges, the order setting forth any appointment shall be entered on the minutes of each participating court.

(4) The Administrative Office of Courts shall develop and promulgate minimum qualifications for the certification of court administrators. Any court administrator appointed on or after October 1, 1996, shall be required to be certified by the Administrative Office of Courts.

(5) Support staff shall receive compensation pursuant to personnel policies established by the Administrative Office of Courts; however:

(a) From and after July 1, 1994, the Administrative Office of Courts shall allocate from the support staff fund an amount of Forty Thousand Dollars (\$40,000.00) per fiscal year per judge for whom support staff is approved for the funding of support staff assigned to a judge or judges; and

(b) From and after July 1, 2008, the Administrative Office of Courts shall allocate from the support staff fund an amount of Forty Thousand Dollars (\$40,000.00), in addition to the amount provided in paragraph (a). Of the amount provided in this

paragraph (b), each judge shall utilize an amount sufficient to ensure that judge has access to the services of a law clerk, whether hired by the judge separately or in concert with another judge. Any excess funds remaining upon satisfaction of this requirement may be used for any other support staff as defined in this section. Any employment pursuant to this subsection shall be subject to the provisions of Section 25-1-53.

The Administrative Office of Courts may approve expenditure from the fund for additional equipment for support staff appointed pursuant to this section in any year in which the allocation per judge is sufficient to meet the equipment expense after provision for the compensation of the support staff.

(6) For the purposes of this section, the following terms shall have the meaning ascribed herein unless the context clearly requires otherwise:

(a) "Judges" means circuit judges and chancellors, or any combination thereof;

(b) "Support staff" means court administrators, law clerks, legal research assistants or secretaries, or any combination thereof, but shall not mean school attendance officers;

(c) "Compensation" means the gross salary plus all amounts paid for benefits or otherwise as a result of employment or as required by employment; provided, however, that only salary earned for services rendered shall be reported and credited for Public Employees' Retirement System purposes. Amounts paid for benefits or otherwise, including reimbursement for travel expenses, shall not be reported or credited for retirement purposes;

(d) "Law clerk" means a clerk hired to assist a judge or judges who has a law degree or who is a full-time law student who is making satisfactory progress at an accredited law school.

(7) Title to all tangible property, excepting stamps, stationery and minor expendable office supplies, procured with funds authorized by this section, shall be and forever remain in the State of Mississippi to be used by the circuit judge or chancellor during the term of his office and thereafter by his successors.

(8) Any circuit judge or chancellor who did not have a primary office provided by the county on March 1, 1988, shall be allowed an additional Four Thousand Dollars (\$4,000.00) per annum to defray the actual expenses incurred by the judge or chancellor in maintaining an office; however, any circuit judge or chancellor who had a primary office provided by the county on March 1, 1988, and who vacated the office space after that date for a legitimate reason, as determined by the Department of Finance and Administration, shall be allowed the additional office expense allowance provided under this subsection. The county in which a circuit judge or chancellor sits is authorized to provide funds from any available source to assist in defraying the actual expenses to maintain an office.

(9) The Supreme Court, through the Administrative Office of Courts, shall submit to the Department of Finance and Administration the itemized and certified expenses for office operating allowances that are directed to the court pursuant to this section.

(10) The Supreme Court, through the Administrative Office of Courts, shall have the power to adopt rules and regulations regarding the administration of the office operating allowance authorized pursuant to this section.

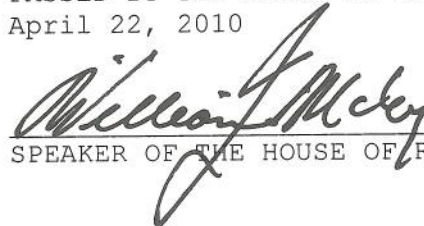
SECTION 5. Section 25-31-8, Mississippi Code of 1972, is brought forward as follows:

25-31-8. From and after July 1, 2006, in all circuit court districts in this state existing now or hereafter created, the district attorney shall receive from sums appropriated for such

purpose from the General Fund or any special fund of the State of Mississippi, an office operating allowance for the necessary expenses of operating the office of the district attorney, including stenographic help, and other items and expenditures necessary and incident to the investigation of criminal cases, the general expenses of the office of the investigation of criminal cases, the general expenses of the office of the district attorney for preparing and/or trying felony cases and all other cases requiring the services of the district attorney, the sum of Thirty-five Thousand Dollars (\$35,000.00) for each district, and an additional Four Thousand Dollars (\$4,000.00) for each assistant authorized by Section 25-31-5(1). All expenditures made from such office operating allowances shall be upon written requisition of the duly elected district attorney to the State Auditor, as otherwise provided by law. The district attorney may delegate to the board of supervisors of any county in his district the responsibility and authority to employ and set the salary of not more than one (1) employee for the office of such district attorney, such salary to be paid as other expenditures are paid from the funds provided by this section. Such employee shall be deemed to be appointed and employed by the board of supervisors and the salary shall not be deemed to be a pecuniary benefit provided by the district attorney's office. The district attorney shall be authorized to assign the duties of any employees regardless of the source of funding for such employees.

SECTION 6. This act shall take effect and be in force from and after July 1, 2010.

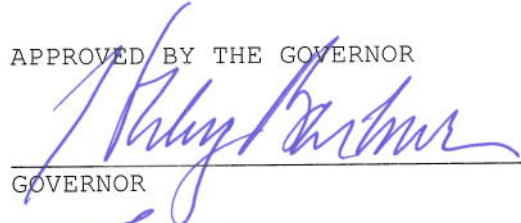
PASSED BY THE HOUSE OF REPRESENTATIVES
April 22, 2010


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
April 23, 2010


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR

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